
By: **The Speaker and the Minority Leader (By Request - Administration)**
and Delegates Edwards, Aumann, Bartlett, Barve, Bates, Boschert,
Boteler, Boutin, Burns, Cane, V. Clagett, Costa, Cryor, Eckardt, Elmore,
Frank, Frush, Glassman, Goldwater, Hammen, Hogan, Holmes,
Hubbard, Kelly, Krebs, Leopold, Malone, Marriott, McComas,
McConkey, McHale, McIntosh, Miller, Mitchell, Moe, Morhaim,
Nathan-Pulliam, Oaks, O'Donnell, Owings, Parker, Parrott, Ross,
Rudolph, Sossi, Stern, Stocksdale, Stull, Walkup, Weir, Weldon, and
Wood

Introduced and read first time: January 27, 2004
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Brownfields Redevelopment Reform Act**

3 FOR the purpose of providing that certain applicants and certain properties may be
4 eligible to participate in the Voluntary Cleanup Program in the Maryland
5 Department of the Environment (MDE) under certain conditions; requiring
6 MDE to review certain standards in a certain time period; establishing certain
7 application fees under certain circumstances; altering certain application fees;
8 authorizing MDE to develop certain regulations; altering certain procedures for
9 applications to the Voluntary Cleanup Program; altering certain procedures for
10 public participation in MDE's process of approving response action plans;
11 establishing certain liability protection for certain participants receiving a no
12 further requirements notice; requiring certain persons to submit certain
13 information to a one-call system in Maryland; requiring certain persons to be
14 responsible for the cost of cleaning up a property under certain conditions;
15 authorizing the State to bring a civil action for punitive damage against certain
16 persons who fail to comply with certain orders under certain circumstances;
17 requiring MDE to approve a response action plan for a portion of a property
18 under certain conditions; requiring MDE to convene a certain work group;
19 authorizing certain agents or employees to enter certain private land in
20 Baltimore City under certain conditions; providing that certain persons and
21 contaminated properties are eligible for money from the Brownfields
22 Redevelopment Incentive Program in the Department of Business and Economic
23 Development; altering certain requirements for certain local governments to
24 participate in the program; altering the process for the distribution and use of
25 certain contributions; defining certain terms; and generally relating to the
26 Voluntary Cleanup Program and the Brownfields Redevelopment Incentive
27 Program.

1 BY adding to
2 Article - Environment
3 Section 7-266.1 and 7-506.1
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 2003 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Environment
8 Section 7-501(e), (g), and (j), 7-505, 7-506, 7-509, 7-510(a), 7-511(a), 7-512(a),
9 7-514, and 7-515
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 2003 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Real Property
14 Section 12-111(f)
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2003 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article 83A - Business and Economic Development
19 Section 5-1401(j) and 5-1408(a)
20 Annotated Code of Maryland
21 (2003 Replacement Volume)

22 BY repealing and reenacting, with amendments,
23 Article - Tax - Property
24 Section 9-229(g)
25 Annotated Code of Maryland
26 (2001 Replacement Volume and 2003 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article - Environment**

30 7-266.1.

31 (A) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
32 EQUITY, ANY RESPONSIBLE PERSON WHO FAILS WITHOUT GOOD CAUSE TO COMPLY
33 WITH A FINAL ORDER OF THE STATE IN ACCORDANCE WITH THIS SUBTITLE MAY BE
34 LIABLE TO THE STATE FOR PUNITIVE DAMAGES.

1 (2) PUNITIVE DAMAGES MAY BE ASSESSED IN AN AMOUNT NOT TO
2 EXCEED THREE TIMES THE AMOUNT OF ANY COSTS INCURRED BY THE STATE AS A
3 RESULT OF SUCH FAILURE.

4 (3) A RESPONSIBLE PERSON SHALL BE ENTITLED TO A CONTESTED
5 CASE HEARING FOR A DETERMINATION WHETHER THE RESPONSIBLE PERSON HAS
6 FAILED WITHOUT GOOD CAUSE TO COMPLY WITH A FINAL ORDER OF THE STATE IN
7 ACCORDANCE WITH THIS SUBTITLE.

8 (4) PUNITIVE DAMAGES MAY BE CALCULATED ONLY ON THE COSTS
9 ARISING AFTER THE DATE A DETERMINATION IS MADE UNDER PARAGRAPH (3) OF
10 THIS SUBSECTION.

11 (B) THE STATE IS AUTHORIZED TO COMMENCE A CIVIL ACTION AGAINST ANY
12 PERSON TO RECOVER PUNITIVE DAMAGES IN ACCORDANCE WITH SUBSECTION (A)
13 OF THIS SECTION, WHICH SHALL BE IN ADDITION TO ANY COSTS RECOVERED FROM
14 THE PERSON IN ACCORDANCE WITH § 7-221 OF THIS SUBTITLE.

15 7-501.

16 (e) "Contamination" means a release, discharge, or threatened release of:

17 (1) [a] A controlled hazardous substance, as defined in § 7-201 of this
18 title; OR

19 (2) OIL, AS DEFINED IN § 4-401 OF THIS ARTICLE.

20 (g) (1) "Eligible property" means property OR A PORTION OF A PROPERTY
21 that is contaminated or perceived to be contaminated.

22 (2) "Eligible property" does not include property that is:

23 (i) On the national priorities list under § 105 of the federal act;

24 (ii) [Under] EXCEPT AS PROVIDED IN PARAGRAPH (3)(I) OF THIS
25 SUBSECTION, UNDER active enforcement; or

26 (iii) Subject to a controlled hazardous substances permit issued in
27 accordance with Title 7 of this article.

28 (3) (I) "ELIGIBLE PROPERTY" MAY INCLUDE A SITE UNDER ACTIVE
29 ENFORCEMENT IF:

30 1. ALL APPLICATIONS FILED IN CONNECTION WITH THE
31 PROPERTY ARE FILED BY INCULPABLE PERSONS; AND

32 2. ANY RESPONSE ACTION PLAN AND CLEANUP CRITERIA
33 APPROVED BY THE DEPARTMENT UNDER THIS SUBTITLE ARE AT LEAST AS
34 PROTECTIVE OF PUBLIC HEALTH AND THE ENVIRONMENT AS THE REQUIREMENTS
35 OF ANY OUTSTANDING ACTIVE ENFORCEMENT ACTION.

1 (II) "Eligible property" includes sites listed on the Comprehensive
2 Environmental Response, Compensation, and Liability Information System.

3 (j) (1) "Inculpable person" means a person who:

4 (i) Has no prior or current ownership interest in an eligible
5 property at the time of application to participate in the Voluntary Cleanup Program;
6 and

7 (ii) Has not caused or contributed to contamination at the eligible
8 property at the time of application to participate in the Voluntary Cleanup Program.

9 (2) "Inculpable person" includes:

10 (I) [a] A successor in interest in an eligible property acquired from
11 an inculpable person, as defined in paragraph (1) of this subsection, if the successor in
12 interest does not have a prior ownership interest in the eligible property and, other
13 than by virtue of ownership of the eligible property, is not otherwise a responsible
14 person at the eligible property; AND

15 (II) NOTWITHSTANDING PARAGRAPH (1)(I) OF THIS SUBSECTION, A
16 PERSON WHO IS NOT CONSIDERED A RESPONSIBLE PERSON UNDER § 7-201(X)(2) OF
17 THIS TITLE.

18 7-505.

19 (a) (1) If the Department approves an applicant's status as an inculpable
20 person under § [7-506(b)(1)(i)1] 7-506(E)(1)(I) of this subtitle, the participant's status
21 as an inculpable person continues upon acquiring an interest in the eligible property.

22 (2) IF THE APPLICANT MEETS THE REQUIREMENTS OF § 7-506(A) OF THIS
23 SUBTITLE, THE DEPARTMENT SHALL APPROVE OR DISAPPROVE AN APPLICANT'S
24 STATUS AS AN INCULPABLE PERSON WITHIN 5 BUSINESS DAYS OF RECEIVING:

25 (I) A WRITTEN REQUEST FROM THE APPLICANT FOR AN
26 EXPEDITED DETERMINATION OF THE APPLICANT'S STATUS AS AN INCULPABLE
27 PERSON; AND

28 (II) A FEE OF \$2,000.

29 (b) Except as provided in subsection (c) of this section, an inculpable person is
30 not liable for existing contamination at the eligible property.

31 (c) An inculpable person shall be liable for:

32 (1) New contamination that the person causes or contributes to at the
33 eligible property; and

34 (2) Exacerbation of existing contamination at the eligible property.

1 7-506.

2 (a) To participate in the Program, an applicant shall:

3 (1) Submit an application, on a form provided by the Department, that
4 includes:

5 (i) Information demonstrating to the satisfaction of the
6 Department that the contamination did not result from the applicant knowingly or
7 willfully violating any law or regulation concerning controlled hazardous substances;

8 (ii) Information demonstrating the person's status as a responsible
9 person or an inculpable person;

10 (iii) Information demonstrating that the property is an eligible
11 property as defined in § 7-501 of this subtitle;

12 (iv) A detailed report with all available relevant information on
13 environmental conditions including contamination at the eligible property known to
14 the applicant at the time of the application;

15 (v) 1. An environmental site assessment that includes:

16 A. [established]ESTABLISHED Phase I [and Phase II] site
17 assessment standards and follows principles established by the American Society for
18 Testing and Materials and that demonstrates to the satisfaction of the Department
19 that the assessment has [adequately investigated all potential sources and areas of
20 contamination] BEEN CONDUCTED IN ACCORDANCE WITH THOSE STANDARDS AND
21 PRINCIPLES; AND

22 B. A PHASE II SITE ASSESSMENT IF THE DEPARTMENT
23 CONCLUDES AFTER REVIEW OF THE PHASE I SITE ASSESSMENT THAT THERE ARE
24 RECOGNIZED ENVIRONMENTAL CONDITIONS AS DEFINED BY THE AMERICAN
25 SOCIETY FOR TESTING AND MATERIALS; AND

26 2. FOR AN APPLICATION FOR A PORTION OF A PROPERTY IN
27 ACCORDANCE WITH § 7-501(G)(1) OF THIS SUBTITLE, AN ENVIRONMENTAL SITE
28 ASSESSMENT THAT HAS BEEN CONDUCTED FOR THE ENTIRE PROPERTY; and

29 (vi) A description, in summary form, of a proposed voluntary
30 cleanup project that includes the proposed cleanup criteria under § 7-508 of this
31 subtitle and the proposed future use of the property, if appropriate; and

32 (2) Pay to the Department:

33 (I) [an] AN INITIAL application fee of \$6,000[, unless the
34 Department determines that a lesser fee would be sufficient to cover the costs
35 described in subsection (d) of this section] WHICH THE DEPARTMENT MAY REDUCE
36 ON A DEMONSTRATION OF FINANCIAL HARDSHIP IN ACCORDANCE WITH
37 SUBSECTION (B) OF THIS SECTION; AND

1 (II) AN APPLICATION FEE OF \$2,000 FOR EACH APPLICATION
2 SUBMITTED SUBSEQUENT TO THE INITIAL APPLICATION FOR THE SAME PROPERTY.

3 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH CRITERIA
4 FOR DETERMINING AN APPLICANT'S STATUS FOR A DEMONSTRATION OF FINANCIAL
5 HARDSHIP.

6 (C) (1) THE APPLICANT MAY DELAY SUBMITTING THE PHASE II SITE
7 ASSESSMENT UNTIL AFTER THE APPLICATION AND APPLICABLE FEES ARE
8 SUBMITTED.

9 (2) IF AN APPLICANT DELAYS FILING A PHASE II SITE ASSESSMENT, ALL
10 RELATED DEADLINES FOR PUBLIC NOTICE AND ACTION BY THE DEPARTMENT SHALL
11 BE EXTENDED AND CONFORM WITH THE DATE THE PHASE II SITE ASSESSMENT IS
12 SUBMITTED AND THE APPLICATION IS COMPLETE.

13 (D) (1) ON SUBMISSION OF THE APPLICATION, THE DEPARTMENT SHALL
14 PUBLISH A NOTICE OF THE APPLICATION ON ITS WEBSITE AND THE APPLICANT
15 SHALL POST NOTICE AT THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION.

16 (2) THE NOTICES REQUIRED UNDER PARAGRAPH (1) OF THIS
17 SUBSECTION SHALL INCLUDE:

18 (I) THE NAME AND ADDRESS OF THE APPLICANT AND THE
19 PROPERTY; AND

20 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
21 OFFICE WITHIN THE DEPARTMENT FROM WHICH INFORMATION ABOUT THE
22 APPLICATION MAY BE OBTAINED.

23 [(b)] (E) (1) (i) The Department shall notify the applicant in writing,
24 within [60] 45 days after receipt of the application, whether:

25 1. The application, including the applicant's status as a
26 responsible person or an inculpable person, is approved;

27 2. The application is denied or incomplete; or

28 3. The Department has no further requirements related to
29 the investigation of controlled hazardous substances at the eligible property as
30 provided in paragraph (3) of this subsection.

31 (ii) If the Department denies the application or determines that the
32 application is incomplete, the Department shall provide to the applicant the reasons
33 for its decision in writing.

34 (2) (i) An applicant may resubmit an application within 60 days after
35 receipt of notice of the Department's decision to deny the initial application or
36 determination that the application is incomplete.

1 (ii) The Department shall approve or deny a resubmitted or revised
2 application within 30 days after receipt.

3 (3) If the Department notifies the applicant that the Department has no
4 further requirements at the eligible property in accordance with paragraph (1)(i)3 of
5 this subsection, the Department shall include a statement that this notice does not:

6 (i) Subject to the provisions of § 7-505 of this subtitle, prevent the
7 Department from taking action against any person to prevent or abate an imminent
8 and substantial endangerment to the public health or the environment at the eligible
9 property;

10 (ii) Remain in effect if the notice of no further requirements is
11 obtained through fraud or a material misrepresentation;

12 (iii) Affect the authority of the Department to take any action
13 against a responsible person concerning previously undiscovered contamination at an
14 eligible property after a no further requirements notice has been issued by the
15 Department; or

16 (iv) Affect the authority of the Department to require additional
17 cleanup for future activities at the site that result in contamination by hazardous
18 substances.

19 (4) THE NO FURTHER REQUIREMENTS NOTICE SHALL PROVIDE THE
20 SAME LIABILITY PROTECTIONS AS PROVIDED IN § 7-513(B)(3) AND (4) OF THIS
21 SUBTITLE.

22 (5) THE PARTICIPANT AND ANY SUCCESSORS IN INTEREST IN A
23 PROPERTY SUBJECT TO A NO FURTHER REQUIREMENTS NOTICE SHALL CONTINUE
24 TO BE PROTECTED FROM LIABILITY IN THE EVENT OF ANY VIOLATION OF THE
25 CONDITIONS PLACED ON THE USE OF THE PROPERTY, PROVIDED THAT THE
26 PARTICIPANT AND ANY SUCCESSORS IN INTEREST DID NOT CAUSE OR CONTRIBUTE
27 TO THE VIOLATION.

28 [(c)] (F) (1) The Department shall deny an application if:

29 (i) The applicant is not an eligible applicant;

30 (ii) The property is not an eligible property; or

31 (iii) The property was initially contaminated by a release of
32 hazardous substances after October 1, 1997 unless:

33 1. The property is acquired by an inculpable person; or

34 2. The contamination was caused by an act of God.

35 (2) For the purposes of paragraph (1) (iii) of this subsection, any property
36 identified in the Comprehensive Environmental Response, Compensation, and

1 Liability Information System in accordance with the federal act as of October 1, 1997
2 is presumed to have been initially contaminated on or before October 1, 1997.

3 [(d) (1) If the direct costs of review of the application and administration and
4 oversight of the response action plan exceed the application fee, the Department shall
5 require an applicant or participant to pay to the Department the additional costs
6 incurred by the Department.

7 (2) If the direct costs of review of the application and administration and
8 oversight of the response action plan are less than the application fee, the
9 Department shall refund to the applicant or participant the difference between the
10 costs incurred and the application fee.

11 (e) (G) (1) Within 30 days after receiving notification of approval of an
12 application, a participant shall inform the Department in writing whether the
13 participant intends to proceed or withdraw from the Program.

14 (2) If a participant does not notify the Department of the participant's
15 intent to proceed or withdraw in accordance with paragraph (1) of this subsection, the
16 application will be deemed to be withdrawn.

17 [(f) (H) A determination by the Department that it has no further
18 requirements may be transferred to a subsequent purchaser of the property provided
19 that the subsequent purchaser did not cause or contribute to the contamination.

20 [(g) (I) (1) If a determination by the Department that it has no further
21 requirements is conditioned on certain uses of the property or on the maintenance of
22 certain conditions, the participant shall record the determination in the land records
23 of the local jurisdiction within 30 days after receiving the determination.

24 (2) If the determination by the Department that it has no further
25 requirements is conditioned on certain uses of the property or on the maintenance of
26 certain conditions and the participant fails to record the determination in the land
27 records in accordance with paragraph (1) of this subsection, the determination shall
28 be void.

29 (3) (I) IF A DETERMINATION BY THE DEPARTMENT THAT IT HAS NO
30 FURTHER REQUIREMENTS AT A PROPERTY IS CONDITIONED ON CERTAIN USES OF
31 THE PROPERTY OR ON THE MAINTENANCE OF CERTAIN CONDITIONS, THE
32 PARTICIPANT SHALL SEND A COPY OF THE DETERMINATION TO A ONE-CALL SYSTEM
33 AS DEFINED IN § 12-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

34 (II) ANY OBLIGATION FOR THE PARTICIPANT TO SEND THE
35 INFORMATION REQUIRED UNDER § 7-506(D)(2) OF THIS SECTION DOES NOT NEGATE
36 THE OBLIGATION OF AN OWNER AS DEFINED IN § 12-101(F) OF THE PUBLIC UTILITY
37 COMPANIES ARTICLE TO BECOME A MEMBER OF THE ONE-CALL SYSTEM UNDER
38 TITLE 12 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

39 (J) SUBJECT TO THE PROVISIONS OF § 7-516(A) OF THIS SUBTITLE AND
40 APPROVAL BY THE DEPARTMENT, IF AN OWNER OF AN ELIGIBLE PROPERTY THAT

1 HAS LIMITED PERMISSIBLE USES WANTS TO CHANGE THE USE OF THE ELIGIBLE
2 PROPERTY, THE OWNER, SUBJECT TO APPROVAL BY THE DEPARTMENT, IS
3 RESPONSIBLE FOR THE COST OF CLEANING UP THE PROPERTY TO THE APPROPRIATE
4 STANDARD.

5 7-506.1.

6 (A) IF A DETERMINATION BY THE DEPARTMENT THAT IT HAS NO FURTHER
7 REQUIREMENTS IS CONDITIONED ON CERTAIN USES OF THE PROPERTY OR ON THE
8 MAINTENANCE OF CERTAIN CONDITIONS, THE PARTICIPANT SHALL PAY TO THE
9 DEPARTMENT A FEE OF \$2,000.

10 (B) IF A CERTIFICATE OF COMPLETION IS CONDITIONED ON THE
11 PERMISSIBLE USE OF THE PROPERTY, THE PARTICIPANT SHALL PAY TO THE
12 DEPARTMENT A FEE OF \$2,000.

13 (C) ON A REQUEST BY A PARTICIPANT TO ALTER A RECORD OF
14 DETERMINATION IN THE LAND RECORDS FOR AN ELIGIBLE PROPERTY WITH
15 CONDITIONS IN ACCORDANCE WITH § 7-506(I) OR § 7-514(D) OF THIS SUBTITLE, THE
16 PARTICIPANT SHALL PAY TO THE DEPARTMENT A FEE OF \$2,000.

17 7-509.

18 (a) Upon submission of a proposed response action plan, the participant:

19 (1) Shall publish a notice of a proposed response action plan once a week
20 for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the
21 geographical area in which the eligible property is located that shall include:

22 (i) A summary of the proposed response action plan;

23 (ii) The name and address of the participant and eligible property;

24 (iii) The name, address, and telephone number of the office within
25 the Department from which information about the proposed response action plan may
26 be obtained;

27 (iv) An address to which persons may submit written comments
28 about the proposed response action [plan or request a public informational meeting;
29 and] PLAN;

30 (v) A deadline for the close of the public comment period by which
31 written comments [or requests for a public informational meeting] must be received
32 by the Department; and

33 (VI) THE DATE AND LOCATION OF THE PUBLIC INFORMATION
34 MEETING; AND

35 (2) Shall post at the eligible property a notice of intent to conduct a
36 response action plan at that property.

1 (b) The Department shall receive written comments from the public for 30
2 days after publication and posting required under this section.

3 (c) The Department shall hold a public informational meeting on the proposed
4 response action plan at the participant's expense within [30] 45 days after [the
5 Department receives a written request for a meeting from the applicant or the public]
6 THE PUBLICATION OF THE NOTICE IN ACCORDANCE WITH SUBSECTION (A)(1) OF
7 THIS SECTION.

8 7-510.

9 (a) (1) The Department shall approve a response action plan FOR AN
10 ELIGIBLE PROPERTY if the Department determines that the response action plan
11 protects public health and the environment.

12 (2) THE DEPARTMENT SHALL APPROVE A RESPONSE ACTION PLAN FOR
13 A PORTION OF THE PROPERTY IN ACCORDANCE WITH § 7-501(G)(1) OF THIS SUBTITLE,
14 UNLESS THE DEPARTMENT DETERMINES THAT CONTAMINATION ON THE
15 REMAINDER OF THE PROPERTY REPRESENTS AN IMMINENT AND SUBSTANTIAL
16 ENDANGERMENT TO PUBLIC HEALTH OR THE ENVIRONMENT.

17 7-511.

18 (a) Within [120] 75 days after the Department has received a proposed
19 response action plan, the Department, after considering any comments the
20 Department has received under § 7-509 of this subtitle, shall notify the participant in
21 writing that:

22 (1) The response action plan has been approved; or

23 (2) The response action plan has been rejected and shall state the
24 modifications in the response action plan that are necessary to receive the
25 Department's approval.

26 7-512.

27 (a) Except as provided in subsections (b) and (c) of this section, a participant
28 may withdraw from the Program at the time of a pending application or response
29 action plan, or after receiving a certificate of completion, and may not be obligated to
30 complete an application or a response action plan if the participant:

31 (1) Provides 10 days written notice of the anticipated withdrawal to the
32 Department;

33 (2) Stabilizes and secures the eligible property to the satisfaction of the
34 Department to ensure protection of the public health and the environment; and

35 (3) Forfeits any [expended] application [and oversight] fees.

1 7-514.

2 (a) A response action plan approval letter does not:

3 (1) Subject to the provisions of § 7-505 of this subtitle, prevent the
4 Department from taking action against any person to prevent or abate an imminent
5 and substantial endangerment to the public health or the environment at the eligible
6 property;

7 (2) Remain in effect if the response action plan approval letter is
8 obtained through fraud or a material misrepresentation;

9 (3) Affect the authority of the Department to take any action against any
10 person concerning new contamination or the exacerbation of existing contamination
11 at an eligible property after a response action plan approval letter has been issued by
12 the Department;

13 (4) Affect the authority of the Department to take any action against a
14 responsible person concerning previously undiscovered contamination at an eligible
15 property after a response action plan approval letter has been issued by the
16 Department;

17 (5) Prevent the Department from taking action against any person who
18 is responsible for long-term monitoring and maintenance as provided in the response
19 action plan; or

20 (6) Prevent the Department from taking action against any person who
21 does not comply with conditions on the permissible use of the eligible property
22 contained in the response action plan approval letter.

23 (b) A certificate of completion does not:

24 (1) Subject to the provisions of § 7-505 of this subtitle, prevent the
25 Department from taking action against any person to prevent or abate an imminent
26 and substantial endangerment to the public health or the environment at the eligible
27 property;

28 (2) Remain in effect if the certificate of completion is obtained through
29 fraud or a material misrepresentation;

30 (3) Affect the authority of the Department to take any action against any
31 person concerning new contamination or exacerbation of existing contamination at an
32 eligible property after a certificate of completion has been issued by the Department;

33 (4) Affect the authority of the Department to take any action against a
34 responsible person concerning previously undiscovered contamination at an eligible
35 property after a certificate of completion has been issued by the Department;

1 (5) Prevent the Department from taking action against any person who
2 is responsible for long-term monitoring and maintenance for failure to comply with
3 the response action plan;

4 (6) Prevent the Department from taking action against any person who
5 does not comply with conditions on the permissible use of the eligible property
6 contained in the certificate of completion; or

7 (7) Subject to the provisions of § 7-512 of this subtitle, prevent the
8 Department from requiring any person to take further action if the eligible property
9 fails to meet the applicable cleanup criteria set forth in the response action plan
10 approved by the Department.

11 (c) A response action plan approval letter or a certificate of completion may be
12 transferred to any person whose actions did not cause or contribute to the
13 contamination.

14 (d) (1) If a certificate of completion is conditioned on the permissible use of
15 the property [for industrial or commercial purposes], the participant shall record the
16 certificate of completion in the land records of the local jurisdiction within 30 days
17 after receiving the certificate.

18 (2) If the certificate of completion has a conditioned use and the
19 participant fails to record the certificate of completion in the land records in
20 accordance with paragraph (1) of this subsection, the certificate of completion shall be
21 void.

22 (3) (I) IF A CERTIFICATE OF COMPLETION IS CONDITIONED ON THE
23 PERMISSIBLE USE OF THE PROPERTY, THE PARTICIPANT SHALL SEND A COPY OF THE
24 CERTIFICATE OF COMPLETION TO A ONE-CALL SYSTEM, AS DEFINED IN § 12-101 OF
25 THE PUBLIC UTILITY COMPANIES ARTICLE.

26 (II) ANY OBLIGATION FOR THE PARTICIPANT TO SEND THE
27 INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT
28 NEGATE THE OBLIGATION OF AN OWNER AS DEFINED UNDER § 12-101(F) OF THE
29 PUBLIC UTILITY COMPANIES ARTICLE TO BECOME A MEMBER OF THE ONE-CALL
30 SYSTEM UNDER TITLE 12 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

31 (e) Subject to the provisions of § 7-516(a) of this subtitle, if an owner of an
32 eligible property that has limited permissible uses wants to change the use of the
33 eligible property, the owner, subject to approval by the Department, is responsible for
34 the cost of cleaning up the eligible property to the appropriate standard.

35 (F) THE PARTICIPANT AND ANY SUCCESSORS IN INTEREST IN A PROPERTY
36 SUBJECT TO A CERTIFICATE OF COMPLETION SHALL CONTINUE TO BE PROTECTED
37 FROM LIABILITY IN THE EVENT OF ANY VIOLATION OF THE CONDITIONS PLACED ON
38 THE USE OF THE PROPERTY, PROVIDED THAT THE PARTICIPANT AND ANY
39 SUCCESSORS IN INTEREST DID NOT CAUSE OR CONTRIBUTE TO THE VIOLATION.

1 7-515.

2 (A) The provisions of §§ 7-256 through 7-268 of this title shall be used and
3 shall apply to enforce violations of:

4 (1) This subtitle; or

5 (2) Any regulation adopted under this subtitle.

6 (B) ANY ACTION TAKEN BY THE DEPARTMENT UNDER THIS SUBTITLE AT A
7 SITE UNDER ACTIVE ENFORCEMENT MAY NOT:

8 (1) NEGATE THE TERMS AND CONDITIONS OF ANY OUTSTANDING
9 ACTIVE ENFORCEMENT ORDER, DECREE, JUDGMENT, PERMIT, OR OTHER DOCUMENT
10 THAT ADDRESSES ENVIRONMENTAL CONTAMINATION AT THE SITE; OR

11 (2) RELIEVE ANY PERSON WHO IS THE SUBJECT OF AN ACTIVE
12 ENFORCEMENT ACTION FROM LIABILITY FOR PENALTIES UNDER THE
13 ENFORCEMENT ACTION.

14 **Article - Real Property**

15 12-111.

16 (f) In Anne Arundel County OR BALTIMORE CITY, an agent or employee, or
17 one or more assistants of the county, after real and bona fide effort to notify the
18 occupant or the owner, if the land is unoccupied or if the occupant is not the owner,
19 may enter on any private land to make test borings and soil tests and obtain
20 information related to such tests for the purpose of determining the possibility of
21 public use of the property. If an agent, employee, or assistant is refused permission to
22 enter or remain on any private land for the purposes set out in this subsection, Anne
23 Arundel County OR BALTIMORE CITY may apply to a law court of the county where
24 the property or any part of it is located for an order directing that its agent, employee,
25 or assistant be permitted to enter and remain on the land to the extent necessary to
26 carry out the purposes authorized by this subsection. The court may require that
27 [Anne Arundel County] THE APPLYING JURISDICTION post a bond in an amount
28 sufficient to reimburse any person for damages reasonably estimated to be caused by
29 test borings, soil tests, and related activities. If any person enters on any private land
30 under the authority of this section or of any court order passed pursuant to it and
31 damages or destroys any land or personal property on it, the owner of the property
32 has a cause of action for damages against [Anne Arundel County] THE JURISDICTION
33 THAT DID NOT AUTHORIZE THE ENTRANCE. Any person who knows of an order issued
34 under this subsection and who obstructs any agent, employee or any assistant acting
35 under the authority of the order may be punished for contempt of court.

36 **Article 83A - Business and Economic Development**

37 5-1401.

38 (j) (1) "Brownfields site" means:

1 (i) An eligible property, as defined in § 7-501 of the Environment
2 Article, that is:

3 1. Owned or operated by[:

4 A. An] AN inculpable person, as defined in § 7-501 of the
5 Environment Article]; or

6 B. An innocent purchaser that meets the requirements set
7 forth in § 7-201(x)(2)(i) of the Environment Article]; and

8 2. Located in a county or municipal corporation that has
9 elected to participate in the Brownfields Revitalization Incentive Program in
10 accordance with § 5-1408(a) of this subtitle; or

11 (ii) Property where there is a release, discharge, or threatened
12 release of oil, as defined in § 4-401 of the Environment Article, that is:

13 1. Subject to [a corrective action plan approved by the
14 Department of the Environment in accordance with] THE PROVISIONS OF Title 4 of
15 the Environment Article; and

16 2. Located in a county or municipal corporation that has
17 elected to participate in the Brownfields Revitalization Incentive Program in
18 accordance with § 5-1408(a) of this subtitle.

19 (2) "Brownfields site" does not include property that is owned or
20 operated by a responsible person or a person responsible for the discharge.

21 5-1408.

22 (a) A county or municipal corporation may elect to participate in the
23 Brownfields Revitalization Incentive Program by:

24 (1) (I) Submitting to the Department a list of potential Brownfields
25 sites in the county or municipal corporation, ranked in the order of priority for
26 redevelopment recommended by the county or municipal corporation; and

27 [(2)] (II) Annually updating the list submitted under [paragraph (1)]
28 ITEM (I) of this [subsection] ITEM; OR

29 (2) (I) ENACTING LEGISLATION GRANTING PROPERTY TAX CREDITS
30 IN ACCORDANCE WITH THE REQUIREMENTS OF § 9-229 OF THE TAX - PROPERTY
31 ARTICLE; AND

32 (II) NOTIFYING THE DEPARTMENT OF THE LEGISLATION.

1

Article - Tax - Property

2 9-229.

3 (g) A [proportional share of a] taxing jurisdiction's contribution for each
4 qualified Brownfields site to the Maryland Economic Development Assistance Fund
5 under subsection (c)(2) of this section shall be [designated for financial incentives to
6 be provided for qualified Brownfields sites in the jurisdiction making that
7 contribution] USED ONLY FOR BROWNFIELDS SITES IN THE TAXING JURISDICTIONS
8 THAT HAVE ENACTED A BROWNFIELDS PROPERTY TAX CREDIT ORDINANCE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the
10 Environment shall convene a work group from representatives of the Department of
11 Planning, the Department of Business and Economic Development, various sectors of
12 local government, real estate professionals, the business community, the banking
13 industry, the environmental community, and members of the public and undertake a
14 review of the Universal Environmental Covenants Act proposed by the National
15 Conference of Commissioners on Uniform State Laws. The work group shall make
16 recommendations to the Department of the Environment, and, in accordance with §
17 2-1246 of the State Government Article, the Senate Education, Health, and
18 Environmental Affairs Committee and the House Environmental Matters Committee
19 on or before December 31, 2004.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2004.